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MAR 30 2005

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NEW YORK NY 10017

In re Application of :
John J. Harrington et al :
Serial No.: 09/586,744 : PETITION DECISION
Filed: June 2, 2000 :
Attorney Docket No.: RI-71904 :

This is in reply to the renewed petition filed March 14, 2005, requesting review of the petition decision mailed January 13, 2005, denying applicants' request to have a protest expunged from the reissue file.

The background of the application is presented in the previous petition decision and is not repeated herein. Applicants' current petition presents many of the same arguments as presented previously, all of which were carefully considered. It is agreed that third party protester should not be participating in the prosecution of any application, including this reissue application. However, a third party protester has a right and obligation to also raise new issues with respect to a reissue application which may have a bearing on patentability and which the Office may or may not be aware of. Both the second and third protests raise, or appear to raise, a new issue of patentability not previously considered by the Office and arose only in response to applicants' reply to an outstanding Office action. These relate to either new prior art or interpretation of references already considered. It is also noted that the merits of the protest are evaluated by the examiner who may or may not accept the positions presented in the protest, but must address it in the next Office action.

Applicants' petition is again **DENIED**.

Applicants remain under obligation to file their Appeal Brief within the time period set by filing of the Notice of Appeal, received March 3, 2005, or as may be extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600